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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,425	09/12/2003	Bernd Kempf	09192-US	8091

7590 02/07/2005

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EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,425

Applicant(s)

KEMPF, BERND

Examiner

Meredith C Petravick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 4, 6 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/12/03, 4/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson, Jr. et al. 4,974,711.

Peterson discloses a harvesting machine including:

- an engine (engine of tractor)
- a crop processing arrangement (Col. 1, line 14-17)
- a drive line connecting the engine to a main drive clutch (PTO)
- a safety arrangement including:
 - o a brake (12) for stopping rotation of the crop processing arrangement
 - o a control arrangement including a sensor (46) for detecting an operator safety condition

The control arrangement applies the brake when sensor signals that the operator is not safe.

Regarding claim 3, an operating switch (16) and an ignition switch (18) is connected to the control arrangement.

3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Pardee 5,033,595.

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Pardee discloses a harvesting machine including:

- an engine (11)
- a crop processing arrangement (considered to be the cutting blade)
- a drive line (12) connecting the engine to a main drive clutch (10)
- a safety arrangement including:
 - o a brake (30) for stopping rotation of the crop processing arrangement
 - o a control arrangement including a sensor (deadman lever; Col. 3, lines 51-55) for detecting an operator safety condition

The control arrangement applies the brake when sensor signals that the operator is not safe.

Regarding claim 2, the control arrangement simultaneously disengages the clutch while engaging the brake.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Arizpe 4,345,418.

Arizpe discloses a harvesting machine (10) including:

- an engine (12)
- a crop processing arrangement (considered to be the mower blade)
- a drive line (108) connecting the engine to a main drive clutch
- a safety arrangement including:
 - o a brake (114) for stopping rotation of the crop processing arrangement

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- a control arrangement including a sensor (including lever 70) for detecting an operator safety condition (Col. 6, lines 40-62)

The control arrangement applies the brake when sensor signals that the operator is not safe.

Regarding claim 5, brake is coupled to the driveline at a location a considerable distance from the crop processing arrangement considering the length of the driveline (Fig. 6).

Allowable Subject Matter

5. Claims 4 and 6-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Meredith C Petravick
Primary Examiner
Art Unit 3671

February 3, 2005